

REMARKS

Summary of Office Action

Claims 1-7 were pending. Claims 4-7 were withdrawn from consideration as drawn to non-elected inventions.

Claims 1-3 have been rejected under 35 U.S.C. 103 (a) as being obvious from Melchione et al. U.S. Patent No. 5,930,764 or its continuation-in-part — Melchione et al. U.S. Patent No. 5,966,695 (“Melchione,” “Melchione CIP”, or collectively “the Melchione patents”).

Applicants’ Reply

Claims 1-3 have been amended for clarity. Applicants respectfully traverse the prior art rejections.

§103(a) Rejections

In the Office Action, claims 1-3 have been rejected as obvious from the Melchione patents.

Applicants respectfully submit that the Office Action does not provide sufficient or properly identified factual information to make out a *prima facie* case of obviousness. Applicants respectfully believe that Office Action ¶ 5, for example, misidentifies the term “electronic sales” as “products,” and further misidentifies “customer-related information” data feeds 21- 25 as the “specific” type of product market data called out by applicants claims. (See e.g., Melchione col. 10 line 60 - col. 11 line 7, etc.). At least for this reason, the obviousness rejection is improper.

As previously submitted, applicants' invention, according to claim 1, relates to a process for an analytical evaluation of a product marketing effort for a "specific" product in the context of the presence of several competitive products on the market. The subject product may, for example, be a new pharmaceutical drug. In particular, claim 1 includes the steps of assembling databases of various market data specific to products including data related to a success factor in a market performance of the subject product (e.g., success factors such as product detailing, adoption and capture rates); data on unmet or latent product needs in the market; and data on the proclivity of decision makers (e.g., prescribing physicians, insurance and hospital personnel) to choose the subject product over other products. Claim 1 further includes the steps of using a computer simulation model to project a future market share of the specific product based on the assembled market product data.

Applicants respectfully submit that cited Melchione patents do not show, teach or suggest these elements of claim 1.

Unlike applicants' inventive process, the Melchione patents are not concerned with specific product marketing or with any numerical calculation or projection of a market share of a subject product. Instead, the Melchione patents are concerned only with computerization of conventional person-to-person contact techniques for customer sales and support in the financial industry. Neither of the Melchione patents shows, teaches or suggests analysis of specific product market performance, which the subject matter of applicants' claims.

The first Melchione patent describes an electronic version of a financial institution's conventional sales and service support system and method for identifying sales targets. The patent describes a centralized database, which "standardizes and households the information in a

three-level hierarchy (households, customers, and accounts) for use by a financial institution.”

The electronic version is designed manage a financial institution’s customer base (i.e., “profiling customers, enhancing customer relations, and electronically tracking sales performance during marketing campaigns”). (See e.g., Melchione Abstract, FIGS. 1- 9B, specification, claims 1-20).

The Melchione CIP patent describes user interface features (e.g., screens, checklists and prompts) that are electronically available to guide bank personnel through the steps of opening bank accounts for customers or to prompt telemarketers through calls to customers. (See e.g., Melchione CIP, FIGS. 10A- 18C).

Applicants respectfully submit that the Melchione patents do not show, teach or suggest product marketing analysis or predicting future sales of a specific product, which is the subject matter of claim 1. For example, Melchione’s “Sales Tracking and Reporting Component provides only historical sales activity reports “for each banker or other customer service representative.” (See e.g., Melchione col. 35 lines 19 - 12). In particular, the Melchione patents do not show, teach or suggest “using a simulation model on said computer to calculate a future market share of said product based on said collected first, second, and third data,” (where the first second and third data are the specific product market data) as recited in claim 1.

Therefore claim 1 is patentable over the cited patents, irrespective of whether they are viewed individually or in combination.

Further, there is no suggestion or motivation, either in the Melchione patents themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the financial institution’s electronic sales and service support system that are described in the Melchione patents to product marketing analysis. In particular, applicants respectfully submit that the

obviousness rejection of claim 1 which requires “using a simulation model on said computer to calculate a future market share of said product based on said collected first, second, and third data, thereby determining said post-launch performance on said market,” is based on the improper hindsight.

For at least the foregoing reasons, claim 1 is non-obvious and patentable.

Dependent claims 2 and 3

Dependent claims 2 and 3 are patentable for at least the same reasons that their parent claim 1 is patentable as discussed above.

Conclusion

Applicants respectfully submit that this application is now in condition for allowance. Reconsideration and prompt allowance of which are requested. If there are any remaining issues to be resolved, the applicants request that the Examiner contact the undersigned attorney for a telephone interview.

Respectfully submitted,



Manu J Tejwani
Patent Office Reg. No. 37,952

BAKER BOTTS L.L.P.
30 Rockefeller Plaza
New York, New York 10112-4498

Attorneys for Applicants

(212) 408-2614